

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DONALD E. CLARK, JR.,	:	CIVIL ACTION NO. 1:19-CV-762
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
SGT. SCHWARTZ, <i>et al.</i>,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 26th day of November, 2019, upon consideration of the report (Doc. 23) of Chief Magistrate Judge Susan E. Schwab, issued following review of the *pro se* plaintiff's amended complaint (Doc. 15) pursuant to 28 U.S.C. § 1915A(b), in which Judge Schwab recommends that the instant complaint be dismissed for failure to state a claim for which relief may be granted and also recommends that further leave to amend not be granted in light of the fact that plaintiff has already once been granted an opportunity to cure the deficiencies identified in his pleading, and it appearing that the plaintiff has not objected to any aspect of the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure to timely object to a magistrate judge's conclusions "may result in forfeiture of *de novo* review at the district court level," Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should afford "reasoned consideration" to the uncontested portions of the report, E.E.O.C. v. City of Long Branch, 866 F.3d 93, 100 (3d Cir. 2017) (quoting Henderson, 812 F.2d at 879), in order to "satisfy itself that

there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following independent review of the record, the court being in agreement with Judge Schwab’s recommendation, including her determination that further leave to amend would likely be futile, and thus concluding that there is no clear error on the face of the record,¹ it is hereby ORDERED that:

1. The report (Doc. 23) of Chief Magistrate Judge Schwab is ADOPTED.
2. Plaintiff’s amended complaint (Doc. 15) is DISMISSED.
3. The Clerk of Court shall CLOSE this case.
4. Any appeal from this order is deemed to be frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania

¹ We supplement the report by noting that, to the extent Clark alleges in cursory fashion that “staff confiscated your plaintiff’s claim,” (see Doc. 15 at 3), he does not identify who confiscated the cane or plead any facts suggesting that the unnamed individual(s) acted with deliberate indifference.